

Panaji, 2nd March, 1989 (Phalguna 11, 1910)

SERIES II No. 48

OFFICIAL GAZETTE



GOVERNMENT OF GOA

GOVERNMENT OF GOA

Department of Personnel

Order

No. 3/13/85-PER (Vol. IV)

Ref. Order No. 3/13/85-PER (VOL. IV) dated 7-12-1988.

In partial modification of the Government order read above, Shri Ashok Bakshi, I. A. S. is posted with immediate effect as Commissioner of Sales Tax, Excise and Entertainment Tax vice Shri W. C. Khambra, I. A. S., transferred.

2. The Government is further pleased to order transfer of Shri W. C. Khambra, Commissioner of Sales Tax, Excise and Entertainment Tax and post him as Managing Director, Goa Handicrafts Rural and Small Scale Industries Development Corporation Ltd., Panaji with immediate effect. Shri Khambra shall continue to hold the charge of the post of Commissioner for Payments until further orders.

By order and in the name of the Governor of Goa,
Smt. Prabha Chandran, Under Secretary (Personnel).
Panaji, 13th February, 1989.

Order

No. 3/17/74-PER (Vol. IV) (B)

The Government is pleased to order the following transfers and postings of Grade II Officers of Civil Services with immediate effect.

Sr. No.	Name of the officer and present posting	Posting on transfer
1.	Shri D. A. R. Hawaldar, Collectorate (North Goa)	General Manager, Goa Marketing and Supply Federation, Panaji on deputation.
2.	Shri Madan Mohan, Addl. Deputy Collector (North Goa)	Deputy Collector/District Recovery Officer (North Goa).
3.	Shri N. Surayanarayan, Addl. Deputy Collector (South Goa)	Deputy Collector/District Recovery Officer (South Goa).

2. The deployment of the Officer at Sr. No. 1 is on deputation basis for a period of one year in the first instance and it shall be regulated as per Standard terms of deputation laid down by Government of India from time to time.

3. The Officers at Sr. No. 2 and 3 shall also look after the work pertaining to cattle rounding up and also demolition of unauthorised structures.

By order and in the name of the Governor of Goa,
Smt. Prabha Chandran, Under Secretary (Personnel).
Panaji, 2nd February, 1989.

Order

No. 15/17/86-PER (Vol. I)

The Government is pleased to order the transfers and posting of the following officers borne on the cadre of Mamlatdar/Jt. Mamlatdar/B.D.O. with immediate effect.

Sr. No.	Name and Designation of the officer	Post against which transferred
1	2	3
1.	Shri N. B. Narvekar, Jt. Mamlatdar, Bicholim	Chief Officer, Sanguem Municipal Council on deputation vice Shri S. S. Kantak transferred
2.	Shri S. S. Kantak, Chief Officer Sanguem Municipal Council	Jt. Mamlatdar, Salcete vice Shri B. D. Divekar transferred
3.	Shri B. D. Divekar, Jt. Mamlatdar, Salcete	Jt. Mamlatdar, Bicholim vice Shri N. B. Narvekar transferred

2. The transfer on deputation of the officer at S. No. 1 will be governed by standard terms of deputation.

3. The deputation of Shri Kantak in Sanguem Municipal Council will stand terminated on relief from the said Council.

4. The officer at Sl. No. 2 should move first.

5. The Collector North/South District and President of Municipal Council Sanguem shall make necessary arrangements to relieve the above officers to join their new posting immediately.

By order and in the name of the Governor of Goa,
Smt. Prabha Chandran, Under Secretary (Personnel).
Panaji, 9th February, 1989.

Order

No. 6/3/81-PER (VOL. IV)

Read: 1. Order No. 6/10/84-PER (Vol. III) dated 5-6-1985.
2. Order No. 6/3/81-PER (Vol. IV) dated 6-8-1985.
3. Order No. 6/3/81-PER (Vol. IV) dated 30-12-87.

The deputation terms of the following Grade II Officers of Civil Service mentioned in Government orders referred to above are hereby extended for further period of one

year with effect from the dates shown against each of them on the existing terms of conditions of deputation.

Sl. No.	Name and designation of the Officer on deputation	The date from which the deputation period extended
1.	Shri A. X. B. Viegas, Chief Officer, Bicholim Municipal Council.	20-5-1988 to 19-5-1989.
2.	Shri K. A. Satardekar, Chief Officer, Mapusa Municipal Council.	14-8-1988 to 13-8-1989.
3.	Shri F. C. Fernandes, Administrator of Tiswadi Comunidades.	1-1-1989 to 31-12-1989.

By order and in the name of the Governor of Goa.
Smt. *Prabha Chandran*, Under Secretary (Personnel).
Panaji, 7th February, 1989.

Directorate of Vigilance

Order

No. 13/26/86-VIG

Read:— Government order of even number dated 11-2-1988.

The appointment of Shri Rajeev M. Pandit, Assistant Technical Examiner in this Directorate made on deputation under order dated 11-2-1988 read as above is extended for further period of one year with effect from 8-2-1989 on usual terms and conditions of deputation.

By order and in the name of the Government of Goa.
S. D. Sadhale, Deputy Director (Vigilance).
Panaji, 16th February, 1989.

Home (General) Department

Notification

No. 1/53/88-HD(G)

Read:— Government Notification No. HD-34-1410/1966, dated 5th October, 1966.

Sanction of the Government is hereby conveyed to transfer the three revenue villages viz. Codli, Misal and Cormonem of Kerlapal-Dabal village panchayat from the jurisdiction of the Collem Police Station to the jurisdiction of Curchorem Police Station in addition to two revenue villages viz. Bandoli and Camarconda which are already under the jurisdiction of same Police Station, with immediate effect in public interest.

By order and in the name of the Governor of Goa.
A. T. Kamat, Under Secretary (Home).
Panaji, 3rd February, 1989.

Public Works Department

Order

No. CE/MBP/220/88-PW & UD

Government is pleased to transfer a stretch of National Highway-17 Section Km. 30.80 to 36.00 (Panaji-Karnataka Boarder Section) passing through Margao Municipal Council for maintenance.

The Executive Engineer, Works Division XIV, P.W.D., Fatorda, Margao shall hand over the Section of the said Highway Km. 30.80 to 36.00 to Margao Municipal Council.

The Margao Municipal Council will be entitled to get a grant of Rs. 16,000/- per Km. sanctioned by the Ministry of Surface Transport towards maintenance of this stretch by the Government of Goa. The Margao Municipal Council will be fully responsible for proper maintenance of this stretch of N. H. 17 which is falling within the Margao Municipal limit.

This order shall come into force with immediate effect.

By order and in the name of the Governor of Goa.
D. V. Sathe, Under Secretary to the Govt. of Goa (P.W.D.).
Panaji, 6th February, 1989.

Revenue Department

Notification

No. 22/10/89-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. Land Acquisition for laying of pipeline and construction of service roads of villages Verna, Nagoa and Cuelim of Salcete and Mormugao Taluka for 160 MLD. Salauli Water Supply Project (Ch. 36920 to 39385).

And Whereas in the opinion of the Government the provision of sub-section (1) of section 17 of the Land Acquisition Act, 1894 (Central Act 1 of 1894) (hereinafter referred to as "the said Act"), are applicable.

Now, Therefore, the Government hereby notifies under sub-section (1) of section 4 of the said Act that the said land is likely to be needed for the purpose specified above.

The Government further directs under sub-section (4) of section 17 of the said Act that the provisions of section 5A of the said Act shall not apply in respect of the said land.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contract for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed under paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under section 6 of the said Act will be published in the Official Gazette and in two daily newspapers and public notice thereof shall be given in due course. If the acquisition is abandoned wholly or in part, the fact will also be notified in the same manner.

4. The Government further appoints under clause (c) of section 3 of the said Act, The Special Land Acquisition Officer, S.I.P. Gogal Margao to perform the functions of a Collector South Goa District, Margao under the said Act in respect of the said land.

5. The Government also authorises, under sub-section (2) of section 4 of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector, South Goa District, Margao.
2. The Special Land Acquisition Officer, S.I.P. Gogal Margao.
3. The Executive Engineer, W. D. XXIV (PHE) PWD Gogal Margao.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Special Land Acquisition Officer, S.I.P. Gogal Margao for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE
(Description of the said land)

Tahuka: Mormugao		Village: Cuelim
Survey No. Sub. Div. No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3
90/3 part	H: Comunidade of Cuelim.	1500.00
86/28	H: Rui Cunha Braganza.	1450.00
91/4 part	H: Antonio Piedade Souza.	75.00
91/42 part	H: Comunidade of Cuelim. T: Baburao Ranganath Gaude.	25.00
91/43 part	H: Comunidade of Cuelim. T: Antonio Faria.	50.00
91/44 part	H: Comunidade of Cuelim. T: Rosalina Faria.	25.00
91/50 part	H: Comunidade of Cuelim. T: Rita Colaco.	15.00
84/5 part	H: Comunidade of Cuelim. T: Jose Caitano Misquita.	125.00
84/6 part	H: Comunidade of Cuelim. T: Jose Caitano Misquita.	100.00
84/7 part	H: Comunidade of Cuelim. T: Mariano Rosario Misquits.	125.00
84/8 part	H: Comunidade of Cuelim. T: Rita Colaco.	175.00
Boundaries:		
North: Road.		
South: Village boundary of Nagao.		
East: S. No. 90/3, 91/43 to 50, 84/6 to 16, Road, 93/32, 33, 34, 35, 36 and 37, 40 to 46, 48, 50, 52, 56, 94/1 to 10, 15.		
West: 90/3, 86/28, 84/5, 8 to 18, Road, 93/35 to 37, 40 to 47, 49, 51, 53, 95/95, 76 Nala 94/3 to 10 & 13.		
84/9 part	H: Comunidade of Cuelim. T: Jose Caitano Misquita.	325.00
" /10 part	H: Comunidade of Cuelim. T: Mariano Rosario Misquita.	175.00
" /11 part	H: Comunidade of Cuelim. T: Vincente Colaco.	375.00
" /12 part	H: Comunidade of Cuelim. T: Filis Misquita.	300.00
" /13 part	H: Comunidade of Cuelim. T: Joaquina Sequira.	300.00
84/14 part	H: Comunidade of Cuelim. T: Mariano Rosario Carvalho.	550.00
" /15 part	H: Comunidade of Cuelim. T: Filomena Fernandes.	550.00
" /16 part	H: Comunidade of Cuelim. T: Antonio Vaz.	500.00
" /17 part	H: Comunidade of Cuelim. T: Francisco Vaz.	300.00
" /18 part	H: Comunidade of Cuelim. T: Rosario Fernandes.	100.00
" /19 part	H: Comunidade of Cuelim. T: Joaquim D'Sa.	25.00
93/51 part	H: Comunidade of Cuelim. T: Antonio Rosario D'Sa.	100.00
" /52 part	H: Comunidade of Cuelim. T: Shobhavati Gajanan Nalk.	300.00
" /53 part	H: Comunidade of Cuelim. T: Shobhavati Gajanan Nalk.	100.00
" /54	H: Comunidade of Cuelim. T: Antonio Rosario D'Sa.	125.00
" /56 part	H: Comunidade of Cuelim.	75.00
" /57	H: — do —	75.00
94/1 part	H: Comunidade of Cuelim. T: Conceicao Luiza Vaz.	1600.00
" /2 part	H: Comunidade of Cuelim. T: Lourenco Gabriel Fernandes.	550.00
" /3 part	H: Comunidade of Cuelim. T: Elestino Pereira.	650.00
" /4 part	H: Comunidade of Cuelim. T: Inacia Fernandes.	300.00
" /5 part	H: Comunidade of Cuelim. T: Filomena Maria Joseph Fernandes e Cruz.	300.00

1	2	3
" /6 part	H: Comunidade of Cuelim. T: Mariana Santan Fernandes.	650.00
" /7 part	H: Comunidade of Cuelim. T: Algina Dias.	550.00
" /8 part	H: Comunidade of Cuelim. T: Florina Fernandes.	500.00
" /9 part	H: Comunidade of Cuelim. T: Maria Anecicao Rego.	350.00
" /10 part	H: Comunidade of Cuelim. T: Socovia Fernandes.	325.00
93/32 part	H: Comunidade of Cuelim. T: Camilo D'Sa.	50.00
" /33 part	H: Comunidade of Cuelim. T: Jose Thomas D'Sa.	200.00
" /34 part	H: Comunidade of Cuelim. T: Caltan D'Sa.	300.00
" /35 part	H: Comunidade of Cuelim. T: Francisco D'Sa.	300.00
" /36 part	H: Comunidade of Cuelim. T: Amolia Mor. Remedies Mor.	375.00
" /37 part	H: Comunidade of Cuelim. T: Joao Xavier Fernandes.	575.00
" /40 part	H: Comunidade of Cuelim. T: Luis D'Sa.	375.00
" /41 part	H: Comunidade of Cuelim. T: Dina Fernandes.	375.00
" /42 part	H: Comunidade of Cuelim. T: Luis D'Sa.	375.00
" /43 part	H: Comunidade of Cuelim. T: Dina Fernandes.	400.00
" /33 part	H: Comunidade of Cuelim. T: Ditosa Meneses.	600.00
" /45 part	H: Comunidade of Cuelim. T: Filomena Xavier Fernandes.	300.00
" /46 part	H: Comunidade of Cuelim. T: Joaquim Fernandes.	300.00
" /47 part	H: Comunidade of Cuelim. T: Toudolina D'Sa.	175.00
" /48 part	H: Comunidade of Cuelim. T: Toudolina D'Sa.	150.00
" /49 part	H: Comunidade of Cuelim. T: Ambrosia D'Sa.	100.00
" /50 part	H: Comunidade of Cuelim. T: Ambrosia D'Sa.	175.00
94/12 part	H: Comunidade of Cuelim. T: Socorro Fernandes.	50.00
94/13 part	H: Comunidade of Cuelim. T: Maria Anaceicao Rego.	200.00
" /14	H: Comunidade of Cuelim. T: Socorro Fernandes.	200.00
" /15 part	H: Comunidade of Cuelim. T: Maria Anaceicao Rego.	200.00
95/75 part	H: Elidio Furtado Cabral.	100.00
" /76 part	H: — do —	500.00

Boundaries:

North: Village boundary of Cuelim.

South: Village boundary of Verna.

East: S. No. 7/2, 1 & 2, 103/13 to 22, 35, 44 to 50, 35, 30, 104/2 to 11, 93/7, 22, 6 to 15, 92/12 to 19, 87/1 to 13, 20, 86/20 & 25, 84/1 & 11, 64/10 to 12, 32 & 34.

West: S. No. 7/1, 2, 103/9 to 19, 40 to 50, 35, 32, 33, 104/2 to 9, 96/3, 5, 93/18, 19, 20, 23, 6 to 13, 95/1, 94/12, 14, 13, 92/16 to 19, 87/1 to 13, 18, 86/4, 5, 22, 25, 84/1 to 4 & 11, 64/12 to 16, 32 & 34.

Tahuka: Salcete

Village: Nagao

7/1 part	H: Joaquim Salvador Noronha.	275.00
7/2 part	H: Comunidade of Nagao. T: 1. Nina Noronha Cabral. 2. Francisco D'Sa.	2400.00
103/9 part	H: Comunidade of Nagao. T: Antonio Fernandes.	100.00

1	2	3	1	2	3
" /10 part	H: Comunidade of Nagoa. T: Joaquim Sebastiao Fernandes.	550.00	" /21	H: Carmino Noronha.	175.00
" /11 part	H: Comunidade of Nagoa. T: Alzira Dias.	650.00	" /22 part	H: Adolfinia Noronha.	275.00
" /12 part	H: Comunidade of Nagoa. T: Alzira Dias.	700.00	" /23 part	H: — do —	350.00
" /13 part	H: Comunidade of Nagoa. T: Calorina Colaco.	875.00	93/6 part	H: Comunidade of Nagoa. T: Antonio Rosario Vaz.	350.00
" /14 part	H: Comunidade of Nagoa. T: Elestina Pereira.	400.00	93/7 part	H: Comunidade of Nagoa. T: Sebastiao Inacio Manuel Vaz.	350.00
" /15 part	H: Comunidade of Nagoa. T: Maria Divina Aurora Pinto.	400.00	" /8 part	H: Comunidade of Nagoa. T: Regina Fernandes.	725.00
" /16 part	H: Comunidade of Nagoa. T: Joaquim Fernandes.	400.00	" /9 part	H: Comunidade of Nagoa. T: Harichandra Govade.	400.00
" /17 part	H: Comunidade of Nagoa. T: Catarina Fernandes.	400.00	" /10 part	H: Comunidade of Nagoa. T: Rupa Govade.	375.00
" /18 part	H: Comunidade of Nagoa. T: Jose Roque Machado.	400.00	" /11 part	H: Comunidade of Nagoa. T: Ana Francisca Fernandes.	675.00
" /19 part	H: Comunidade of Nagoa. T: Roquestinha Fernandes.	400.00	" /12 part	H: Comunidade. T: Pasquinha Noronha.	800.00
" /20 part	H: Comunidade of Nagoa. T: Etelina Fernandes.	550.00	" /13 part	H: Comunidade. T: Carlos Colaco.	800.00
103/21 part	H: Comunidade of Nagoa. T: Jacinta Barretto.	150.00	" /14 part	H: Comunidade. T: Mar'ninha Fernandes.	675.00
" /22 part	H: Comunidade of Nagoa. T: Eliza Fernandes.	50.00	" /15 part	H: Comunidade. T: Carlos Colaco.	75.00
" /35 part	H: Comunidade of Nagoa.	50.00	95/1 part	H: Comunidade of Nagoa.	15.00
" /41 part	H: Comunidade of Nagoa. T: Etelina Fernandes.	150.00	94/12 part	H: Comunidade of Nagoa. T: Conceisao Fernandes.	25.00
" /42 part	H: Comunidade of Nagoa. T: Jacinta Barretto.	275.00	" /13 part	H: Lilia Berta Alvares.	450.00
" /43 part	H: Comunidade of Nagoa. T: Rafael Fernandes.	275.00	" /14 part	H: Maria Fernandes Silvera e Soares. T: Natalina Miranda.	300.00
" /44 part	H: Comunidade of Nagoa. T: Menino Fernandes.	350.00	92/12 part	H: Comunidade. T: Vithal Datta Shet Arsekar.	50.00
" /45 part	H: Comunidade of Nagoa. T: Clemento Fernandes.	350.00	" /13 part	H: Comunidade. T: Bernardo Faria.	325.00
" /46 part	H: Comunidade of Nagoa. T: Agostinha Rodrigues.	275.00	" /14 part	H: Comunidade. T: Francisco Xavier Souza.	130.00
" /47 part	H: Comunidade of Nagoa. T: Jose Manuel Rodrigues.	325.00	" /15 part	H: Comunidade. T: Manuel Fernandes.	150.00
" /48 part	H: Comunidade of Nagoa. T: Zito Gama Cabral.	575.00	" /16 part	H: Comunidade. T: Pedro Vaz.	125.00
" /49 part	H: Comunidade of Nagoa. T: Antonio Faria.	325.00	" /17 part	H: Comunidade. T: Carlos Colaco.	100.00
" /50 part	H: Comunidade of Nagoa. T: Camilo Santano Lobo.	350.00	" /18 part	H: Comunidade. T: Piedade Andrez.	150.00
" /35 part	H: Comunidade of Nagoa.	275.00	" /19 part	H: Comunidade. T: Sebastiao Miranda.	140.00
" /30 part	H: Comunidade of Nagoa. T: Antonio Faria.	100.00	87/1 part	H: Comunidade of Nagoa. T: Jack Sebastiao Vaz.	230.00
" /31	H: Comunidade of Nagoa. T: Camilo Santano Lobo.	300.00	" /2 part	H: Comunidade of Nagoa. T: Ellente Cruz.	230.00
" /32 part	H: Comunidade of Nagoa. T: Antonio Faria.	50.00	" /3 part	H: Comunidade of Nagoa. T: Rita Fernandes.	230.00
" /33 part	H: Comunidade of Nagoa.	75.00	" /4 part	H: Comunidade of Nagoa. T: Augustinho Fernandes.	230.00
104/2 part	H: — do —	550.00	" /5 part	H: Comunidade of Nagoa. T: Dev Ezzo Naik.	230.00
" /3 part	H: Comunidade of Nagoa. T: Aurora Pinto.	500.00	" /6 part	H: Comunidade of Nagoa. T: Vicente Vaz.	230.00
" /4 part	H: Comunidade of Nagoa. T: Nicolao Menezes.	400.00	" /7 part	H: Comunidade of Nagoa. T: Inacio Caitano Carvalho.	460.00
" /5 part	H: Comunidade of Nagoa. T: Vincente Menezes.	325.00	" /8 part	H: Comunidade of Nagoa. T: Philipa Colaco.	230.00
" /6 part	H: Comunidade of Nagoa. T: Manuel Colaco.	875.00	" /9 part	H: Comunidade of Nagoa. T: Joao Cruza.	230.00
" /7 part	H: Comunidade of Nagoa. T: Joao Fernandes.	200.00	" /10 part	H: Comunidade of Nagoa. T: Paulo Miranda.	460.00
" /8 part	H: Comunidade of Nagoa. T: Josepha Cruz.	250.00	" /11 part	H: Comunidade of Nagoa. T: Costa Rosario Vaz.	415.00
104/9 part	H: Comunidade of Nagoa. T: Eliza Fernandes.	400.00	" /12 part	H: Comunidade of Nagoa. T: Joao Minguel Fernandes.	350.00
" /10 part	H: Comunidade of Nagoa. T: Francisco Fernandes.	550.00	" /13 part	H: Comunidade of Nagoa. T: Caitano Piedade Costa Bir.	415.00
" /11 part	H: Comunidade of Nagoa. T: Minguel Piedade Fernandes.	225.00	" /18 part	H: Comunidade of Nagoa. T: Salvador Vaz.	165.00
96/5 part	H: Carlita Costelo.	35.00	" /19 part	H: Comunidade of Nagoa. T: Pascoal Dias.	325.00
" /6	H: Maria Piedade Vaz e Seina.	350.00	" /20 part	H: Comunidade of Nagoa. T: Salvador Vaz.	220.00
" /7 part	H: Rodolfo D'Cunha.	225.00	86/4 part	H: Comunidade of Nagoa. T: Puificasao Vaz.	60.00
" /3 part	H: Comunidade of Nagoa.	150.00	86/5 part	H: Comunidade of Nagoa. T: Maria Vaz.	330.00
" /17 part	H: Comunidade of Nagoa. T: Carlos Pinto.	20.00	86/6 part	H: Comunidade of Nagoa. T: Severina Vaz.	400.00
" /18 part	H: Comunidade of Nagoa. T: Caitano Cabral.	60.00	" /7 part	H: Comunidade of Nagoa. T: Puificasao Vaz.	250.00
" /19 part	H: Comunidade of Nagoa. T: Santano D'Costa.	150.00	" /8 part	H: Comunidade of Nagoa. T: Maria Vaz.	40.00
" /20 part	H: Carminho Noronha. T: Francisco Vaz.	300.00			

1	2	3
" /21 part	H: Comunidade of Nagoa. T: Especiosa Fernandes.	75.00
" /22 part	H: Comunidade of Nagoa. T: 1. Marya Viegas Fernandes. 2. Edalina Fernandes.	2750.00
" /23 part	H: Maria Joanita Colaco e Valadares.	175.00
84/1 part	H: Comunidade of Nagoa. T: Josmelina E. Gonsalves.	600.00
" /2 part	H: Comunidade of Nagoa. T: Maria Joanita Colaco e Valadares.	600.00
" /3 part	H: Comunidade of Nagoa. T: Peter Paulo Cruz.	110.00
" /4 part	H: Comunidade of Nagoa. T: Batista Fernandes.	25.00
" /11 part	—	1525.00
64/16 part	H: Comunidade of Nagoa. T: Joaquim Peves.	245.00
" /15 part	H: Comunidade of Nagoa. T: Vicente Gonsalves.	305.00
" /14 part	H: Comunidade of Nagoa. T: Pedro Gonsalves.	525.00
" /13 part	H: Comunidade of Nagoa. T: 1. Salvasao Rodrigues. 2. Manuel Fernandes.	635.00
" /12 part	H: Comunidade of Nagoa. T: Caitano Luis Braganza.	2350.00
" /11 part	H: Comunidade of Nagoa. T: Joaquim Remedios Gomes.	1950.00
64/10 part	H: Comunidade of Nagoa. T: Maria Christalina Monteiro.	250.00
" /32 part	H: Comunidade of Nagoa.	70.00
" /34 part	H: Jose Pereira.	255.00

Taluka: Salcete

Village: Verna

5/19	Greeta Soares Siqueira.	125.00
5/20 part	H: Comunidade of Verna. T: Joaquim Fernandes.	50.00
5/28 part	H: Jose Colaco.	50.00
323/5 part	H: Comunidade of Cuelim. T: Lourence Gardril Fernandes.	165.00
323/6 part	H: Comunidade of Verna.	250.00
323/7 part	T: Jose Colaco.	50.00
" /8 part	T: Agnelo Alvares.	175.00
" /14 part	T: Agnelo Alvares.	100.00
" /15 part	Filomena Santos Costa Pereira.	225.00
" /16 part	Comunidade of Verna. T: Ana Philip Fernandes.	550.00
" /17 part	H: Comunidade of Verna. T: Caitan Lobo.	415.00
" /18 part	H: Comunidade of Verna. T: Inacina Salena.	470.00
" /19 part	H: Comunidade of Verna. T: Caitan Jose Fernandes.	415.00
" /20 part	H: Comunidade of Verna. T: Caitan Pedro Fernandes.	825.00
" /21 part	H: Comunidade of Verna. T: Lourenve Costa.	360.00
" /22 part	H: Comunidade of Verna. T: Francisco Costa.	225.00
" /23 part	H: Comunidade of Verna. T: Jose Barretto.	140.00
" /24 part	H: Comunidade of Verna. T: Marian Santan Fernandes.	50.00
" /35 part	H: Comunidade of Verna. T: Minguel Joaquim Fernandes.	25.00
323/36 part	H: Comunidade of Verna. T: Romalda Xavier Fernandes.	280.00
" /37 part	H: Comunidade of Verna. T: Mariana Fernandes.	1925.00
" /39 part	H: Comunidade of Verna. T: Pedrin Fernandes.	25.00
" /40 part	H: Comunidade of Verna. T: Domingo Alvares.	220.00
" /41 part	H: Comunidade of Verna. T: Pedrina Fernandes.	975.00
" /42	H: Comunidade of Verna. T: Domingo Alvares.	250.00
" /43 part	H: Comunidade of Verna. T: Domingo Alvares.	270.00
" /44	H: Comunidade of Verna.	85.00
" /45	H: — do —	50.00
" /48 part	H: Philippe Abranches.	25.00
334/23 part	H: Jose Philip Jancito Gama.	50.00
" /25 part	H: Comunidade of Verna.	25.00

1	2	3
" /26 part	H: Jose Philip Jancito. Gracia Abranches.	250.00
" /27 part	H: Comunidade of Verna.	25.00
" /28 part	H: Jose Philip Jancito. Gracia Abranches.	300.00
" /24 part	H: Comunidade of Verna. T: Xavier Fernandes.	275.00
335/11 part	H: Jose Philip Jancito. Gracia Abranches.	150.00
Cowshed by		
1. Caitan Jose Fernandes.		
2. Maria Luizad Vaz.		
3. Concecao Fernandes.		
Boundaries:		
North: Village boundary of Nagoa.		
South: Nala.		
East: S. No. 5/19, 20, 28, Road, 323/7, 5, 15 to 20, 35, 36, 37, 42, 334/23, 24, 28, 335/11.		
West: Road, 323/8, Nala, 323/14, 16 to 24, 37, 39, 40, 41, 43 & 48.		
Total		74410.00

By order and in the name of the Governor of Goa.

P. S. Nadkarni, Under Secretary (Revenue).

Panaji, 16th February, 1989.

Public Health Department

Order

7/11/87-I/PHD

On the recommendation of the Local Departmental Promotion Committee, following officers of the Directorate of Health Services are hereby promoted purely on ad-hoc basis as Health Officer/Officers of the equivalent grade in the pay scale of Rs. 2200-75-2300-EB-100-4000 and posted as shown against their names with immediate effect:—

Sr. No.	Name and designation & present place of working	Post to which promoted and place of posting
1	2	3
1.	Dr. Fernando Menezes, Medical Officer, Urban Health Centre, Mapusa	Health Officer, Urban Health Centre, Panaji
2.	Dr. Jairam Porob, Medical Officer, Mobile Eye Clinic, Directorate of Health Service, Panaji.	Assistant T. B. Officer, T. B. Control Programme, Urban Health Centre, Panaji

These promotions will not bestow on them a claim for regular appointment and the services rendered on ad-hoc basis in the grade would not count for the purpose of seniority in that grade and for eligibility for promotion to the next higher grade.

The posts are being filled up on ad-hoc basis initially for a period of six months or till these posts are filled on regular basis whichever is earlier. The above officers would be liable to reversion in case they are not selected on regular basis.

On assuming the charge of the post, Dr. Naraina Edo, District Immunization Officer shall be relieved of the additional charge of the post of Health Officer, Urban Health Centre, Panaji and Assistant T. B. Officer, T. B. Control Programme, Panaji.

Dr. Maria L. T. Furtado, Health Educator, U.H.C., Mapusa shall hold additional charge of the post of Medical Officer till the vacancy caused by Dr. Menezes is filled up.

By order and in the name of the Governor of Goa.

L. J. Menezes Pais, Under Secretary (Health).

Panaji, 2nd February, 1989.

Department of Labour

Order

No. 28/2/88-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Governor of Goa.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 17th October, 1988.

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT OF GOA AT PANAJI

(Before Shri S. V. Nevagi, Hon'ble Presiding Officer)

Reference No. IT/12/82

Shri P. Shreedharan

— Workman/Party I

V/s

M/s. Minerals and Metals Trading
Corpn of India Ltd.

— Employer/Party II

Workman represented by Adv. A. Nigalye.

Employer represented by Adv. A. P. Lawande.

Panaji. Dated: 21-9-1988

AWARD

This is a reference made by the Government of Goa, Daman and Diu, by its order No. 28/IND/ILD dated 10th February, 1982 with an annexure scheduled thereto which reads as follows:

"Whether the action of the management of M/s. Minerals and Metals Trading Corporation of India Limited, Vasco-da-Gama, Goa is not promoting their workman, Shri P. Shreedharan, as Junior Stenographer in accordance with the employer's Order No. 20/1960 dated 7-4-64 is legal and justified?

If not, to what relief the said workman is entitled to?"

The above Government reference was received in this Office on 15-2-1982 and by order of my predecessor the reference was registered and notices were issued to the parties. Be it noted here pertinently that the Government reference is dated 10th February, 1982 and by this reference the Government has called up on this Tribunal to find out whether the action of the management in not promoting the workman as Jr. Steno in accordance with the order No. 20/1964 dated 7-4-1964 is just and legal on otherwise. With these dates the question posed for consideration before me is not the dispute between the party I and II but whether the Government has failed to apply its mind to the facts of the case before making the said reference to this Tribunal. I am inclined to make these observations regarding the failure of the Government to apply its mind to the case at this initial stage only because much water has flown below the bridge of the river Mandovi by the time when the reference was made to this Court. There is a reason to believe that the Government was constrained to make this reference in the year 1982 about a comparatively very small matter which had significance between 7-4-1964 to 28-7-1965. On the showing of the workman party No. I himself in the year 1980 the management did not consider his demands and hence he undertook fast unto death. Probably, when he went on fast, the union intervened and took up the case with the Labour Commissioner and after the Labour Commissioner made a report to

the Government the present reference came to be made. The party No. I Shreedharan has himself made this statement at the last para of page three of his deposition. I am inclined to make these observation at the initial stage only because I want to go to the root of the matter and my quest would be to know whether a stale matter or a matter which had outlived its significance has been incorporated in the reference made in the year 1982 and now the reference is being disposed in the year 1988. In order to know the significance of these various dates it would be necessary at this stage to recapitulate all facts giving rise to this Government, reference.

The party I workman worked as a Steno. He joined the services of State Trading Corporation here in after referred to as S.T.C. as a clerk in the year 1953. This S.T.C. was later on bifurcated in to S.T.S. as well as Minerals and Metal Trading Corporation—herein after referred as M.M.T.C. A choice was given to the employees and Shreedharan opted for M.M.T.C. which is now party No. II. Shreedharan who was working at Kandla was later on transferred to Vasco and promoted as Steno-typist in February, 1964. By an office order dated 7-4-1964—Order No. 20/64 here in after to as Exb. El—the post of Steno Typist was abolished and a new cadre known as Jr. Stenographers was created. According to party I by virtue of this order all existing Steno-typists were to be shown against the post of Jr. Stenoes. Rightly or wrongly the name of Shreedharan was not shown against the post of Jr. Stenographer by giving effect to Exd. El dated 7-4-1964; The Management of M.M.T.C. Vasco corrected this mistake by an order No. 40/65 dated 6-8-65 giving it the retrospective effect from 28-7-1965. The post of Steno-typist carried a scale of Rs. 110-180 while the newly created post of Jr. Steno carried a scale of Rs. 130-218. The main grievance of Shreedharan is that if he was promoted on or after 7-4-1964 he would have got the scale of Rs. 130-218 per month which was denied to him till July, 1965. Consequently there was both monetary loss as well as loss in seniority. This is the crux of his grievance, which the Government considered in the year 1982, well after eighteen years.

The reference to this Tribunal is made by the Government u/s 10(1)(d) of the Industrial Disputes Act, 1947. As per the provisions the Government is to act under sub-section I when it forms an opinion that "An Industrial Dispute exists or is apprehended". As per the principles stated by the Supreme Court way back in 1952 in the case of Madras V/s Sarathy reported in 1953 1 LLJ page 174, before making such a reference the Government should satisfy itself in the facts and circumstances brought to its notice in the subjective opinion that an "Industrial Dispute" exists or is apprehended. It is further observed in the above ruling that the order making a reference is an administrative act and it is not a judicial or quasijudicial act and as such the court cannot examine if the Govt. had material before it to support the conclusion that the dispute existed or was apprehended. Following the above observation of the Supreme Court carefully this Tribunal cannot examine the material to hold whether the reference is justified or not. However, the Tribunal can at the most try to know what was the material that was placed before the Government in the year 1982.

From the file of Miscellaneous papers I find that Shri Mar-dolker, the then Assistant Labour Commissioner made a report to Government on 7-11-1981 informing that the workman Shreedharan was denied promotion by the management of M.M.T.C. in 1964, 1967, 1968 and 1969 under one pretext or the other and thereby causing injustice to him. He made a failure report on basis of minutes of discussion which took place on 18-11-1980 and 4-7-1981. As per the minutes annexure A dated 18-11-1980 the following demands as regards Shreedharan were made by the union.

"Shreedharan was promoted w.e.f. 28-7-1965 as Jr. Stenographer. He passed the required test in July, 1966. Still the management did not consider him for the post of Sr. Stenographer in May, 1968. The post was to be filled by promotion only. Between 1968-69 the management conducted five tests for filling up the post. Shreedharan was deprived of this promotive on the statement that he had successfully passed the tests. According to the union there was no test required because the post was to be filled in by promotion only for which Shreedharan was the only eligible candidate. In the mean time the two posts of Jr. Stenographer and Sr. Stenographer were amalgamated and a cadre of just stenographer was introduced. After amalgamation a joint seniority list was prepared. As per this seniority list some stenos who were junior to Shreedharan were shown above him and future promotions were dependent on this seniority

list. With these facts the main contention raised by the union on behalf of Shreedharan was that

"If proper justice was given to Mr. Shreedharan right from 1964 as far as his seniority is concerned he would have got the promotion to the post of office manager in 1972. Recently this promotion has been offered to him and Shreedharan has not accepted this promotion". This is the main demand made by the union. The union therefore demanded on behalf of the workman Shreedharan that because he was denied promotion in 1964 (which was given to him in July, 1965) he should be placed in the seniority list as senior to Gadekar and he be designated as Assistant Divisional Manager and his pay should be fixed with effect from the date of such placement. As this demand was not acceptable to the management the failure report as stated above came to be made.

About the promotion given to Gadekar we find that he was a departmental candidate working as U.D.C. In terms of the office order No. 20/64 dated 7-4-1964 (Exb. E-1) a passing test consisting of English and General Knowledge and Five minutes dictation in shorthand 10 w.p.m. was necessary to be eligible for promotion as Jr. Steno. Shreedharan did not appear for the competitive test held on 6-12-1964 and 7-3-1965, even though he had knowledge about test to be held. According to management the promotion to the post of Jr. Steno was not automatic even as per notification No. 20/64 dated 7-4-1964. According to them till they existing steno-typist, such as Shreedharan were just to be steno against the post of junior stenographer. According to the management notices were duly published in local newspapers about the tests to be conducted in December, 1964 and March, 1965. Secondly the post of stenographer to be filled in by direct recruitment was duly advertised in January, 1964 and May, 1964. The U.D.C. S.S. Gadekar who first appeared for the two tests was promoted as Jr. Stenographer in 1964. The eligibility for the post of stenographer was the person should have worked as Jr. Stenographer. As Gadekar was working as Jr. Stenographer he having passed the required test he was considered for the post of Stenographer and was recruited directly. This shows that the case of S.S. Gadekar stands on different footing. However when the two categories were amalgamated, Gadekar got a jump and he was promoted as manager in 1972. According to the union the seniority list is wrong and Shreedharan should have been promoted to the post of office manager in 1972 by placing S.S. Gadekar below Shreedharan. In this count the Conciliation Proceedings ended in failure and the reference came to be made to Government giving rise to this dispute.

Hence what is the real Industrial Dispute? The dispute was probably promotion to the post of office manager to which Shreedharan claimed to be eligible in 1972, a difference of pay and placement of Shreedharan above Gadekar in the list of the stenographers. This post of Asstt. Divisional Manager was offered to Shreedharan in 1981 which he was reluctant, to accept; However by the time he went in witness box in 1984, he was already working as Asstt. Divisional Manager in M. M. T. C. Hence the failure on the part of management to promote Shreedharan in 1984, the promotion of Gadekar as direct candidate and belated promotion of Shreedharan on 28-7-1965 are only incidental but that by itself does not form an Industrial dispute which this Tribunal is called up on to decide after the failure of conciliation proceeding in 1981 and there is the report of Asstt. Labour Commissioner to Secretary, Industries and Labour Department, Secretariat, Panaji dated 7-11-1981.

Hence the present reference to this Tribunal is not only wrong but the same is about an Industrial Dispute which no more existed. We find an answer to this in one of the demand made by the union asking M.M.T.C. to promote Shreedharan w.e.f. 1972 and place him above S. S. Gadekar in the rank of seniority and to give Shreedharan the difference of pay consequent upon his notional promotion from 1972. What was the real claim of Shreedharan can be found out from the Civil Suit filed by him in the court at C.J.S.D. Vasco in Civil Suit No. 21/72. That suit was withdrawn by the workmen unconditionally in 1976. That was a suit for declaration claiming the post of Sr. Stenographer from July, 1964 or at any rate from July 1968. Hence in the suit filed in 1972, what was claimed by Shreedharan was promotion to the post of senior stenographer. There in the earlier promotion or denial of promotion is referred to only incidentally. Hence even though the withdrawal of the suit in 1976 has no direct bearing in this Government reference, the facts show that the main grievance was not the denial of

promotion in 1964 but denial of promotion in 1968 or so. It would be interesting to see what the management's witness Jt. Regional Manager, Vasant Kaboor has to say in his evidence recorded on 3-9-1984.

After giving reference to Office Order No. 20/64 dated 7-4-1964 — Exb. E-1 he states that existing post of steno-typist was then abolished and post of Jr. Stenographer was created. According to him the condition No. 6 was necessary to be complied with before being eligible to the post and this condition applied to existing steno typists as well. As per condition No. 6 some tests were held in December, 1964 and March, 1965 to fill in the post of Jr. Steno. The notices of these tests were duly published in local dailies at Vasco as well as National newspapers. The required speed in short hand was 100 w.p.m. The workman Shreedharan did not appear for the test. However in order to accommodate Shreedharan the Head Office of Delhi was contacted and as per letter Exb. E-2 dated 23-7-1965 the condition of 100 w.p.m. was relaxed to 80 w.p.m. Hence in pursuance of Exb. E-2 workman Shreedharan was appointed as Jr. Steno by order 40/65 dated 6-8-1965, vide Exb. E-3. Be it noted here pertinently that the order was made retrospective w.e.f. 28-7-1965. About condition No. 6 in the order Exb. E-1 after due advertisement in newspapers the posts were held in the last week of June, 1964 and S. S. Gadekar who successfully passed the test was appointed on 2-7-1964. If all these facts are considered in the proper context it is clear that Gadekar's case stands on different footing from that of Shreedharan and they are distinct from each other. There is reason to believe that Shreedharan had also reconciled to this position because till 1968 he had not complained to any body about denial of such promotion to him.

As per the evidence of this witness the next development took place in 1968-69. Some posts of Stenographer were created then and necessary tests for promotion to the post of stenographer were held in July and October 1968. The workman Shreedharan appeared for the tests but failed. He produced the necessary documentary evidence. Thereafter as per office order 1/2/69 dated 25-3-1969 the rules regarding the posts of stenographers were amended. After this amendment tests were held at Vasco in July and October 1969, Shreedharan appeared for the first test but did not appear for the second test. As per the result sheet the candidate failed. Thereafter there came a significant break; There was a settlement with the union. As per the settlement dated 7-11-1969 (vide Exb. 9) the posts of Jr. Steno and steno were merged. All Jr. Steno's were thereafter called as stenographers and designated as such.

After considering this much portion of the evidence of Kaboor and taking dispassionate view of the whole matter we find that the first note of discord was sounded by Shreedharan who it seems felt that though he was senior in the length of service, he was shown below some stenographers including Gadekar who were below him. It seems that he wanted both seniority above them as well as difference in salary! Hence he filed civil suit No. 21/72 in Vasco Court (vide copy Exb. E-10) Therein, in the prayer column No. 19 he has demanded that

a) He (Plaintiff) be declared to the post of Sr. Steno with effect from July 1964 or at any rate from May, 1968.

b) Alternatively he claimed difference of pay of Rs. 9960/- as consequential relief. As we know he unconditionally withdrew the suit in 1976. The suit was partly dismissed as timebarred, and partly was withdrawn unconditionally. Hence what remained to be considered after 1976 was the demand made by the union that the workman Shreedharan be deemed to be promoted to the post of Asstt. Divisional Manager retrospectively w.e.f. 1972; that in seniority he be placed above Gadekar and difference of pay be given to him. In his evidence the workman Shreedharan admits all these facts. He also admits that in July, 1968 and October 1968 he appeared for the tests but failed. According to him the procedure of tests was irregular but there is no evidence to substantiate this. Hence he got his promotion in 1969 only after the union settled the matter with the management and the cadre of Junior Steno was merged with that of a Stenographer.

With all these facts following facts do emerge namely.

a) Between 1964-65 after due advertisement in newspapers two tests were held. Shreedharan did not appear for either of the tests. The U.D.C. Gadekar however appeared for the test and got promotion with in his own right.

b) Shreedharan appeared for the two tests in 1968 and one test in 1969 but he failed in all these tests and the result sheets are on record. The say of Shreedharan that the tests were not properly conducted is not substantiated by any evidence besides his word.

c) Shreedharan would have languished as Junior Steno, ordinarily. However after 1969 the union intervened and the posts of Junior Steno and Stenographer were amalgamated and here in-after-all were designated as Stenographers, simpliciter.

d) The dispute arose in or about 1971, when the question of promotion to the post of Senior Stenographers arose. It appears that some Stenographers including Gadekar were placed above Shreedharan in the gradation list and were promoted to the post of Sr. Stenographers. This promotion to the post of Sr. Stenographers was a further step in the direction of promotion to the cadre of Asst. Divisional Manager.

e) Hence Shreedharan who languished in the race, felt that injustice was done to him. Hence he filed Regular Civil Suit No. 21/72 on 1st May, 1972 where in prayed that "He be declared to be entitled to the post of Senior Stenographer from July 1964 or at any rate from May 1968. As a consequential relief he claimed difference of pay of Rs. 9960/- by way of damages.

f) The suit was unconditionally withdrawn in 1976.

g) Shreedharan went on hunger strike in 1979, Union intervened and approached Labour Commissioner who made a report of failure to Government giving rise to this reference.

This is the sequence of events giving rise to this reference. It is ex-facie clear from the chronological sequence that the belated promotion in 1965, instead of 1964 is referred to only incidentally to start with and real dispute started in 1966-69 when gradation list of stenographer was prepared and therein Shreedharan was placed below some stenographers who were junior to him in length of service. What transpired after 1969 to 1970 is already discussed in the fore going paragraphs and I am confining myself to the point under reference namely whether injustice was really done to Shreedharan in not promoting him as Jr. Stenographer in accordance with the employer's order No. 20/1964 dated 7-4-1964. I feel that this reference is not proper and no mind is applied before making a reference to the Tribunal in the year 1982 when many developments had already taken place. Shreedharan was already a senior Stenographer to whom the post of Asst. Divisional Manager was already offered by the management. Hence the present reference has been made without application of mind on the part of the Government and I feel that the report made by the Asstt. Labour Commissioner, Shri Mardolker has created the confusion with the Government. Some other reference would have been made by the Government namely seniority list of stenographers; eligibility of Shreedharan for promotion to the post of Asstt. Divisional Manager had the failure report given the information to the Government. In his report to Government dated 7-11-1981 he has given the following information.

"The main contention was that the order No. 20 of 1964 was issued by the management and was not implemented in respect of his workman by showing him against the post of Jr. Stenographer. The union demanded that the order should be implemented with retrospective effect so that consequent benefits follow". With this he enclosed the details of demands of union in the minutes enclosed as "A". I have carefully gone through the minutes and what I find is that the union demanded that the post of Asstt. Divisional Manager be given to Shreedharan and that he be placed senior to Mr. Gadekar". This demand was not acceptable to the management and so the talks failed! I am compelled to go through all these details because the Government has made a reference about an Industrial Dispute which did not really exist and the Industrial Dispute was something else.

As observed by the Supreme Court in the case of State of Madras V/s Sarathy quoted earlier "The order of reference by the Government cannot be examined by the High Court (and much less by the Tribunal) to see if the Government had material before it to support the conclusion that the dispute existed or was apprehended". This being the legal view the Tribunal cannot examine the material on what the Government relied. Hence the reference as it has to be considered by the Tribunal to record a finding. However while recording a finding the Tribunal can say and examine as to what is the Industrial Dispute and I find

that "The Industrial Dispute" is not the denial of promotion in 1964".

The workman admits in page 5 of his deposition that through the cadre of Steno-Typist was abolished under order No. 20 dated 7-4-1964, the local management at Vasco wrote to Delhi to continue the post of Steno-Typist vide copy of letter dated 22-9-1964 Exb. W-5 — produced by workman himself. This letter is self explanatory showing that the two posts of steno-typist were continued until further orders. Where is then the denial of the post because as per clause 6 the workman had to appear for the two tests which he did give. However even though he did not appear for the tests, the management took action in August, 1965 to promote the workman Shreedharan with retrospective effect from July, 1965. Where is then the injustice done to Shreedharan and where is the Industrial Dispute? Secondly the promotion of Gadekar stands on different footing because he gave the test and was promoted earlier to Shreedharan by a few months and because technically senior to him. The workman Shreedharan who realised this meekly accepted this position and later on appeared for the tests, conducted in 1968 and 1969 and failed. We are not concerned with the developments after 1968 because we are to consider the Government reference as it is.

The other grievances of Shreedharan is that eight employees in Delhi office were given promotion by an order dated 11-2-1964 and placed in the scale of Rs. 130-230 of Jr. Stenos. Three special tests were held for them on 22nd September, 1963 and on 19th January, and 4th February, 1964. According to Shreedharan this is wrong and illegal. We are not supposed to consider the legality or other wise because he cannot expect the benefits of the same wrong should be extended to him. The management contends that the cadres at Delhi and Vasco are different. While examining the case of Shreedharan with reference EXB. E-1 it is seen that clause No. 6 envisages a test and he did not give the test and so he was not promoted in 1964, where is the Industrial Dispute?

Even according to Shreedharan the Industrial Dispute started in 1972 when the seniority list was prepared. The choice of forum was with him, whether to approach the civil court or to the Industrial Court. He chose the forum and filed the suit in 1972 which he withdrew in 1976 and the present reference came to be made in 1982 about an Industrial Dispute which did not exist at least in the form of the reference made to the Tribunal. This Tribunal has to consider the reference as it is to record a finding and I find that no finding can be recorded as the Industrial Dispute in the present for does not exist at all.

Here I have to make a reference to a particular development during the course of hearing. My predecessor had framed three preliminary issues on 6-8-1982. By his order dated 2-2-1983 he disposed of the issue No. 3 namely Jurisdiction and while holding that he had jurisdiction he decided all the preliminary issues in the same order. This decision was challenged before the High Court which confirmed the order as regards the preliminary issues. All these developments took place before the hearing on merits at a preliminary stage. However there were two sub-issues (ii) (iii) to issue No. 1 and these sub-issues are ignored by all concerned while dealing with issue No. 3. I find that these sub-issues (ii) and (iii) are the most important issues namely (ii). Application of mind by the Government while making a reference and (iii) there being no industrial dispute within the meaning of Section 2(k) of Industrial Dispute Act. In fact these issues were the crux of the whole matter but they were not even discussed by my predecessor while recording a finding on the point of jurisdiction and now it has come to me to decide these issues and in order to understand the correct position I had to go through the facts as adumbrated in the foregoing paragraphs and I have to come to a conclusion that the Industrial Dispute in the present form did not exist at the time when the reference was made. About Industrial Dispute, "Whether a dispute between an employee and single workman can not be an industrial dispute?" The Supreme Court has now held in the case of News Papers Ltd. V/s. Industrial Tribunal reported in 1957 II LLJ that "An individual dispute cannot be per se an industrial dispute but may become industrial dispute if it is taken up by a Trade Union or a number of workman". While laying down this principle the Supreme Court have affirmed the view taken earlier in the case of Central Provinces transport services V/s. Raghunath Gopal Patwardhan reported in 1957 LLJ page 27. Hence the dispute taken up by the union will be industrial dispute and I find that the dispute taken up by the union on behalf of Shree-

dharan was regarding the promotion of Shreedharan to the post of Asstt. Divisional Manager retrospectively from 1972. In view of this position the present reference is not proper and I find that the report of the Labour Commissioner gave an impression that the so called refusal of promotion was an industrial dispute raised by the union. Precisely this is not so. Even the workman Shreedharan does not say! Otherwise he would not appeared for the tests held in 1968-69. Even though he failed in these tests he was promoted to the post of Stenographer because of the settlement arrived between the union and the management in 1969. So Shreedharan did get the promotion to the post of Stenographer but the dispute arose in 1971 when gradation list was to be prepared. Hence the union took up the matter with the management and then with the Government over which I have had a detailed discussion in the foregoing paragraphs.

Hence there is no existing industrial dispute of the nature envisaged in the Government reference. I therefore pass the following order:

ORDER

No action of the management has been responsible for preventing any promotion to the workman, Shreedharan in 1964. There being no industrial dispute regarding the denial of promotion in 1964 and the Industrial dispute raised by the union being different, the Government reference in the present form, is just filed by recording the above finding.

Inform the Government accordingly.

Parties to bear their own costs.

S. V. Nevagi
Presiding Officer
Industrial Tribunal.

Order

No. 28/63/84-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Dispute Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Governor of Goa.

Subhash V. Elekar, Under Secretary (Industries and Labour).

Panaji, 31st October, 1988.

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT OF GOA AT PANAJI

(Before Shri S. V. Nevagi, Hon'ble Presiding Officer)

Reference No. IT/1/85

Shri Pandurang Vaze — Workman/Party I
V/s
M/s Kadamba Transport Corporation, Panaji — Employer/Party II
Workman represented by Adv. Desmond D'Costa.
Employer represented by Shri P. K. Lele.

Panaji. Dated: 18th October, 1988.

AWARD

This is a reference made by the Government of Goa, by its order No. 28/63/84-ILD dated 1st January, 1985 with an annexure scheduled thereto which reads as follows:

"Whether the action of the employer of M/s Kadamba Transport Corporation Limited, Panaji, Goa in terminating the services of their workman Shri Pandurang Vaze, Conductor with effect from 29-8-1983, is legal and justified.

If not, to what relief the workman is entitled to?"

2. In the above Govt. reference the Party I/Workman is the Conductor who was working on the buses belonging to the Employer M/s Kadamba Transport Corporation a Government undertaking and obviously the Party II is the management of the Transport Corporation. For the sake of proper understanding hereafter the Party I would be referred to as Conductor by name Vaze and Party II as the Kadamba Corporation.

3. The conductor Vaze joined the Corporation on 9-7-81 and he was dismissed from service on 17-6-83 and this order of termination is challenged by him by taking the matter to the Labour Commissioner and upon the failure of the conciliation proceedings the matter was reported to the Government and in turn the Government made the reference as stated above. As such it has now to be seen whether the order of termination of the services of the bus conductor is just and proper in the circumstances of the case and whether this is a case of victimisation as adumbrated by the Conductor in his pleadings before the Court. The claim statement is filed by the Conductor on 18-4-85 while the Corporation has filed the written statement on 2-5-85 to which the rejoinder is filed by the conductor on 5-6-85. Thereafter my Predecessor framed the additional issues besides the Government reference on 17-7-85 and issue No. 1 was regarding the Domestic Enquiry held against the workman by the Corporation and this issue was treated by my Predecessor as a preliminary issue and he has recorded a finding thereon, on 2-4-86 and in his brief order he held that the proceedings of the enquiry had not been conducted with due compliance of the principles of natural justice and as such he held that the enquiry was neither fair nor proper. After the finding on the preliminary point and issue was recorded, the parties went on trial and substantive evidence; both documentary and oral was recorded in the case. The Corporation has examined three witnesses on its behalf and they are Ankush R. Naik working as Asstt. Traffic Inspector (A.T.I.) with the Corporation, a Conductor by name Sachit Naik who was a trainee conductor who joined the duty on 12th July 1982 and who was a trainee conductor and with whom Party I was assigned duty on the particular day to guide him in the matter of conduction of the duty as a conductor. Besides these two the Corporation has examined Abraham L. Correia who was working as Asstt. Traffic Inspector with the Corporation and it is his action dated 5th April 1982 which has given rise to the present controversy and at his instance the Conductor Vaze was charge-sheeted for misappropriation of the Corporation funds while on duty and after due enquiry the Conductor was dismissed from service and this incident which took place on 5th August, 1982 has to be considered with proper time sequence along with the versions and rival contentions of both Party No. I and Party No. II. In the oral testimony before me the Asstt. Traffic Inspector Ankush Naik states that in August, 1982 while he was attached to the main Panaji bus stand and while it was his duty to allot the duties to different Conductors and Drivers of the Corporation he allotted a duty to Conductor, Vaze on 4-8-82 on the bus plying between Panaji and Sawant-Wadi via Patradevi. On 4-8-82 Conductor Vaze signed in the duty register indicating that the duty was allotted to him on that day. The Conductor Vaze was supposed to guide trainee conductor by name Sachit Naik who was a trainee and as such Vaze was allotted the duty on the same route and on the same day. He had to make this arrangement of allotting duty to two conductors because he knew that Sachit Naik had joined the duty on 12-7-82 and he needed proper training for working as a Conductor. According to him Sachit Naik had been given duty earlier on very few routes and the duty on a heavy route between Panaji to Sawantwadi was assigned to Sachit Naik for the first time on 4-8-82. This is the gist of the statement made by the A.T.I., Ankush Naik whose sole duty was to assign duty to different Conductors and Drivers and to properly maintained the relevant registers. In cross examination he admits that on the earlier day i.e. 3-8-82 also Vaze was assigned duty. About the duty on 4-8-82 he stated that the same was assigned to Pandurang Vaze in the routine manner and he has denied the suggestion that the additional duty was given to P. Vaze because there was shortage of Conductors. Whatever that may be, it is brought on record in the cross examination that Pandurang Vaze was assigned the duty on 4-8-82. Realising that this position is not favourable for the Conductor it is suggested to him that after Vaze signed in the register regarding the allotment of duty on 4-8-82 another Conductor was available and he was assigned the duty in place of Pandurang Vaze. While denying the suggestion he adds that trainee conductor should be sent along with the regular conductor. When asked to elaborate on this point he went through the register and stated that earlier on 31-7-82 duties

were assigned to two Conductors on the same route and the relevant entry was at Sr. No. 10. Similarly looking into the register he states that on 15-7-82 there were two conductors who were assigned duty on the same route and both had signed in the register. That was the duty allotted to the witness Suchit Naik and another conductor by name Subhas Raut both of whom had signed in the register. According to him 15th July, 1982 was probably the first day on which Suchit Naik started his duty as a Conductor. All the information elicited in the cross examination goes to show that Pandurang Vaze who was senior conductor amongst the two was assigned duty along with trainee conductor Suchit Naik and we have to see what Suchit Naik has to say in this regard.

4. Suchit Naik states that he joined duty with Kadamba Transport Corporation on 12th July 1982 and before his main assignment on 4th August, 1982 he had worked on Panaji-Margao via Ponda route. He worked along with a senior conductor by name Raut. This confirms with the testimony of the A.T.I. Ankush Naik. About the duty on 4-8-82 he states that he was rather confused to get the duty on a heavy route between Panaji-Sawantwadi and he had requested Ankush Naik to give him duty on a nearer route. However, almost against his desire he was assigned the duty on Panaji-Sawantwadi route and he was asked to work under the Sr. Conductor Party I present in the court. According to him he held the tray of tickets between Panaji up to Mapusa and issued tickets upto Mapusa. At Mapusa, as there was heavy rush of passengers and he did not know the correct stops on the route of Mapusa to Sawantwadi he gave the tray to Vaze requesting him to issue the ticket and take the money. Both safely reached Sawantwadi at about 5.30 p.m. and the bus left Sawantwadi for the return journey to Panaji at 6.00 p.m. and again on 5-8-82 they were on the same route and he held the tray and issued the tickets up to Mapusa and from Mapusa onwards the tray was held by Pandurang Vaze and the tickets were issued by him. On return trip same day from Sawantwadi to Panaji, Pandurang Vaze was holding the tray between Sawantwadi to Mapusa and was issuing tickets. The incident giving rise to this dispute took place when the bus reached its destination at Panaji where two checkers by name Correia and Katkar were standing to check the bus. Both checkers started checking the tickets issued to the passengers while they were getting down. After the checking of the passengers' tickets was over they started checking the luggage and one passenger by name Parker who had excess luggage had no ticket issued to him. While Parker was being questioned by the checkers, Vaze got down and started walking away. When questioned by the checker Correia the passenger told him that he had paid Rs. 10/- to Conductor Vaze towards luggage charges but Vaze told him that no ticket can be issued as there was no separate ticket for luggage. Relying on the explanation of the passenger Correia started looking for Vaze but Vaze had vanished from the scene. Hence Correia asked the trainee conductor Suchit Naik to issue 4 tickets of Rs. 2.50 each towards the luggage charges. This was added to the account of the tray of tickets and thereafter the statement of the passenger Parker and the statement of Suchit Naik were recorded by the checkers. This is the story given by Suchit in his examination in chief.

5. In his cross examination it is suggested to him that he falsely stated that the ticket tray was with Vaze from Sawantwadi to Mapusa on the return journey. It is also suggested to him that Pandurang Vaze was just returning home and that he was not on duty. He positively states that Pandurang Vaze was very much on duty with him on 5th August, at the return trip from Sawantwadi to Panaji. This is all which is elicited in his cross examination. With his evidence it will be material to see what the Checker Correia has to say in the matter. The incident has taken place in 1982 and the evidence was recorded in 1983 and no doubt there is a gap of 6 years. However, the checker should have come well prepared for the evidence but it appears that he was deposing in a very casual manner and even though the incident took place on 5th August, 1982 he initially stated that it was 5th April, 1982 and later on corrected himself when the evidence progressed. This lapse on his part is immaterial because it is a common ground that the incident took place at the main bus stand at Panaji at about 2.00 to 2.30 p.m. on 5-8-82 and that the two checkers Correia and Katkar had checked the bus and the tickets of the passengers.

6. About the checking, Correia states that the way bill of tickets was not complete and about the luggage he states that he found from the statement of Parker that he had

paid Rs. 10/- towards luggage charges but no tickets were issued to him. He looked for Vaze but he had vanished. So he asked the trainee Conductor Suchit Naik to issue ticket, 4 tickets in all of the denomination of Rs. 2.50 each and thereafter he recorded statements and made a report which is at Exb. E-2 and he has proved the report. This report is signed by the second checker Katkar also. He was subsequently examined in the Domestic Enquiry. In cross examination he states that he referred to Suchit Naik as trainee because he was a new conductor. According to him a new conductor is termed as a trainee until he works on 4 to 5 routes and this was the practice prevailing then. About the luggage charges he states that the permissive limit for each passenger is 15 Kg. and the luggage weighing above that is charged. He states that in 1982 Kadamba Corporation did not have separate tickets for luggage charges and passenger tickets were issued for luggage charges. He is positively saying that Pandurang Vaze was present when he had started checking and he had asked Pandurang Vaze and Pandurang Vaze who got down told him that he was the conductor of the bus and thereafter Correia started checking the passengers. He positively denies the suggestion that he did not meet Pandurang Vaze on that day at all. The rest of the portion is quite immaterial and the evidence of the 3 witnesses brings out on record that Pandurang Vaze was the conductor, a Sr. conductor on the heavy Panaji-Sawantwadi route, he was in charge of the tickets, he had received the amount of Rs. 10/- towards luggage charges but had not issued tickets to the passenger and when he found that the matter would recoil on him at the time of checking he vanished from the spot. This is the gist of the evidence led by Party II and it would be proper to see what Pandurang Vaze has to say in his evidence recorded on 25-2-88.

7. It appears from the trend of his deposition that he is making a half hearted statement so far as the assignment of duty on 4th and 5th August is concerned. According to him he finished his duty at 2.00 p.m. on 4th August, 1982 and the period of his rest started. So after 2.00 p.m. he went home to Sawantwadi by Kadamba bus and Suchit Naik was the conductor on that bus. On 4th evening he went home at Sawantwadi and on 5th he was to return from Sawantwadi to Panaji to resume his duties. Incidentally on 5th August, 1982 he travelled by the same bus on which Suchit Naik was the conductor and he got down at the main bus stand at Panaji along with Suchit Naik at about 2.00 p.m. This is how in his examination in chief itself he meets the Corporation story more than half way the only, difference being that he was not on duty but he was enjoying the weekly rest. It has to be seen how far this statement is true and correct. In cross examination he is questioned about duty on 3rd August and he completed the duty on Mapusa-Margao route from 2.00 p.m. on 3-8-82 to 2.00 p.m. on 4-8-82. According to him his duty ended at 2.00 p.m. on 4th August at 2.00 p.m. and he went to Sawantwadi by Kadamba bus at 3.15 p.m. and here lies the crux of the whole matter. When he stated that he was on off duty he was confronted with the duty register for August, 1982; he was shown the entries from 1st to 5th August, 1982—register marked Exb. E-3. Looking through the entries he admitted that he had no duty on 1st August, and he had to admit that, through oversight he had earlier stated that his duty ended on 1st August, 1982. Looking through the entry for 2nd August, 1982 he admitted that he was on duty on 2nd and 3rd August, 1982 on Panaji-Saligao-Margao route. About the crucial entry for 4th August, 1982 he admitted that as per the register he had duty on Panaji-Sawantwadi via Patradevi route starting at 3.25 p.m. and he has signed in the relevant signature column. He also admits that the new conductor Suchit Naik had also duty on that route. He knew that Suchit Naik had joined duty on 12th July, 1982.

8. In the adjourned cross examination he is again confronted about duty on 3rd August, 1982 and thereafter when questioned about 4th August, 1982 he states that even though he signed in the relevant column in the duty register he did not actually go for duty on that route though his signature was taken in the register. According to him the A. T. I. Ankush Naik who assigns duty to conductors and drivers asked him to sign in the register and he states that he did not perform duty on 4th as well as 5th August, 1982, the crucial day on which the incident took place. He further states that he had travelled by the bus on 5th August, reaching Panaji at the time of checking. With this he is confronted with his statement recorded in writing and I feel that this statement which is relevant for consideration in the time sequence would be material piece of evidence for understanding the correct state of affairs. The conductor who

has studied up to S.S.C. has stated in his statement recorded by the Gen. Manager on 28-1-83 (vide page 6 in Exb. E-12 (colly) that he went for duty along with Suchit Naik on the bus because duty master meaning A.T.I. asked him to go on duty. In reply to further questions he stated that he went along with Suchit Naik because the conductor was a new one and he was supposed to see whether the new conductor worked properly or not. About the issuance of the luggage ticket he states that the passenger had given Rs. 10/- but the ticket was to be issued by Suchit Naik and Suchit Naik did not issue the ticket. When he was asked why he did not issue the ticket being a senior conductor he states that Suchit Naik told him that the ticket was issued. He has signed below this statement and now he wants us to believe that he did not sign on a written statement but he was asked to sign "on a blank paper". This is very hard and difficult to accept in the circumstances of the case, because he is a literate person and poses himself as the President of the Workers' Union. The other evidence was recorded in his presence and it is not material because the evidence of the domestic enquiry cannot be relied upon as my Predecessor has already held that the enquiry is defective and the management has to prove its charge on independent evidence.

9. Adverting then to the evidence of the A.T.I. Correia, he states that when the cash box was checked it was found to contain Rs. 597.35 paise only while actually there ought to have been Rs. 617.70 including the luggage charges of Rs. 10/- paid by Parker. In all there was a shortage of Rs. 15/35 and this shortage is not accounted for. Now on behalf of Party I an attempt is made to foist the responsibility on the new conductor Suchit Naik who had just joined the duty hardly three weeks back. I am not prepared to accept the position that such a new conductor would venture to misappropriate the funds of the Corporation within one month's service. The signature of Party I in the duty register is an important factor to be taken into consideration in this case. It clearly shows that Party I, conductor Pandurang Vaze was assigned duty on 4-8-82 and that duty was to end on 5-8-82 at about 2.00 p.m. after the bus reached its destination at Panaji. Hence the Party I cannot be allowed to shirk his responsibility being a senior conductor amongst the two and his immediate conduct after the bus reached the destination is consistent more with his guilt than his innocence. It is apparently clear on record that since the charge sheet was served on him the conductor started in vain stating that he was not on duty on that day and he had travelled by the bus like an ordinary passenger. This plea could have been properly accepted, had not there been positive evidence of the duty register showing that the duty was assigned to him on 4-8-82 which was to end on 5-8-82. There is no reason why the officers of the Corporation Ankush Naik and Correia should come forward to tell lies against the Sr. workman and the report is made immediately after the incident after the statements of all concerned were recorded. All this is consistent with the story that Suchit Naik was a trainee conductor and Party I Pandurang Vaze who was a Sr. Conductor vanished from the scene suspecting that he would be called upon to answer the role played by him in the episode. The charge is on two grounds. The first charge is of taking Rs. 10/- from the passenger for luggage and not issuing a ticket to him. The 2nd charge is of the shortage of Rs. 5.35 and these two shortages came to light immediately after the bus reached the main Panaji bus stand and when the two checkers checked the passengers' tickets and then the cash box and the ticket tray. All these things have taken place during the official conduction of business and it cannot be stated that this is an attempt of victimisation and of shielding anybody. There was not question of shielding Suchit Naik because he was present on the spot and the explanation given by him was found to be correct and the same was stated by the passenger Parker whose statement was recorded and who was subsequently examined as a witness in the domestic enquiry. The passenger Parker in his statement recorded on 5-8-82 itself states that he got into the bus at Sawantwadi and the conductor gave him the tickets for travelling but no ticket was given for luggage. When he asked the conductor why no tickets are given the conductor told him that tickets for luggage are not issued at all. This he said in presence of the checker and the trainee conductor Suchit Naik. This shows that the conductor Suchit Naik was not the conductor to whom he had given the money but he had given the money to the other conductor who was not then present. In his presence the checker asked Suchit Naik to give him tickets and he was given 4 tickets of Rs. 2.50 each. This is the statement recorded immediately after the checking and has high evidentiary value in the time sequence. It is no doubt true that this Parker is not

examined before me as a witness. It is just possible that the Corporation was unable to produce this witness because the matter is 6 years old and the passengers may not be cooperating with the Corporation all the time. This inability of the Corporation to examine Parker does not weaken the case of the Corporation because I am considering the evidence of 5-8-82 and I feel that the evidence of Suchit Naik, the checker Correia and the A.T.I. Ankush Naik is sufficient to prove the involvement of Party I Pandurang Vaze in the whole matter. I am not prepared to believe that the Conductor Pandurang Vaze is made a scape goat by shielding the new conductor who had just entered the services less than one month back. In this regard, it is attempted to suggest that subsequently this conductor was appointed as the President of the Union after the Union was formed. However, I find that the incident has taken place in August, 1982 while the Union is formed in July, 1983 and the letter Exb. 4 about the formation of the Union was received by the Corporation on 27th July, 1983 (letter dated 14-7-83). The enquiry was conducted much before formation of the Union and the letter of termination was issued to the conductor much before the formation of the Union and as such there cannot be any question of victimisation. The Party I, Conductor became the President of the Union much after the termination of his services and as such it cannot be said that this is a case of victimisation. The facts in the present case are considered by me in almost all minute details to understand the correct position and with a view to go to the root of the case while taking a dispassionate view of the whole matter. If there was a slightest doubt that the Corporation's aim was to victimise an innocent person I would have considered that aspect with top priority. However, while considering the things which are brought on record, I am inclined to hold that Suchit Naik was really a novice who had just completed the service of 3 weeks and comparatively Party I, Pandurang Vaze was a veteran conductor having put up a service of more than 2 years and he knew the trick of the tray. I am inclined to hold that a novice like Suchit Naik would not venture to pocket Rs. 10/- received as a luggage fare. Additionally, there is shortage on Rs. 5.35 Hence Pandurang Vaze who was on duty as a Sr. Conductor along with a trainee conductor has his responsibility not only to account for the money but also to issue tickets both as passenger's fare as well as luggage fare. Hence in the circumstances of the case I am inclined to hold that the charge of not issuing tickets after receiving the money from the passengers and not accounting for Rs. 5.35 is duly and properly brought home to Party I/Workman.

10. In this matter it is no doubt true that my Predecessor has recorded a finding on the preliminary issue about domestic enquiry against the Corporation. In that case it would mean that there was no proper domestic enquiry. That by itself does not mean that the Tribunal cannot consider the evidence over again while holding an enquiry u/s 10 read with Sec. 11-A of the I.D. Act. In the case of workmen of the Motipur Sugar Factory reported in AIR 1965 Supreme Court 1803, the question referred to the Industrial Tribunal by the Government was whether the discharge of workmen was justified and whether they are entitled to the relief of reinstatement. It was observed by the Supreme Court that "it was for the Tribunal to investigate the grounds on which the discharge was based and decide whether those grounds justified discharge or not". Similar to this case the question to be considered in that case was whether it was open for the employer who had failed to make an enquiry before dismissing or discharging the workmen to justify his action before the Tribunal by placing all relevant evidence before it. On this point the Supreme Court have observed that "the entire matter would be open before the Tribunal. It will have jurisdiction not only to go into the limited questions open to a Tribunal where domestic enquiry has been properly held, but also to satisfy itself on the facts adduced before it by the employer whether the dismissal or discharge was justified. The important effect of omission to hold an enquiry is merely that the Tribunal would not have to consider only whether there was a prima facie case but would decide for itself on the evidence adduced whether the charges have really been made out". The Supreme Court have further stated by enunciating a principle that "in principle there is no difference whether the matter comes before the Tribunal for approval under S. 33 or on a reference under S. 10. In either case if the enquiry is defective or if no enquiry has been held as required by Standing Orders, the employer would have to justify on facts as well that its order of dismissal or discharge was proper". While stating this principle the Supreme Court have further observed that "a defective enquiry stands on the same footing as no enquiry. If the dismissal be set aside by the Industrial Tribunal only on the

ground that the employer has dismissed his employee without holding an enquiry, it would inevitably mean that the employer will immediately proceed to hold the enquiry and pass an order dismissing the employee once again. In this event, another industrial dispute would arise and the employer would be entitled to rely upon the enquiry which he had held in the meantime. This would mean delay on the second occasion". While making these observations the Supreme Court have relied on 4 earlier cases reported in AIR 1958 SC, 130, AIR 1959 SC, 923, AIR 1959 SC 1111 and AIR 1960 SC, 160. The principle laid down by the Supreme Court in the above cases is that the management has a right to adduce evidence before the Tribunal to justify its action of discharge or dismissal of the employees from the service and the Tribunal has got powers to study the evidence to hold whether the discharge is just and proper in the circumstances of the case. In view of the principles laid down by the Supreme Court I have discussed the facts and evidence in detail in the opening paragraphs to understand the case made out by the Corporation vis-a-viz the Opponent and the stand taken by Party I/Conductor.

11. I find that the duty assigned to the Conductor is the duty of trust and he is working on behalf of the Corporation for collecting the dues from the passengers as fares for travel as well as luggage. Such a duty is a responsible job and it has to be seen whether the person committed a gross misconduct by mis-appropriating the funds which he had collected during the course of his duty. In a similar case of the Kadamba Corporation the Bombay High Court, Panaji Bench in Petition No. 104/1983, the facts were almost similar. The Conductor who had recently joined the duties was found in possession of excess amount at the time of checking and the amount was found in contravention of the specific instructions issued by the Corporation. The Conductor tried to give the explanation which was found unsatisfactory. Hence after holding due enquiry his services were terminated. The matter went into conciliation and the report was made to the Government for making a reference u/s 10(1)(d) of the Act. The Govt. refused to make a reference on the ground that the domestic enquiry conducted by the Corporation was sufficient. This order of the Government was challenged by the Conductor by filing the writ Petition. In that case also the Gen. Manager who had issued the charge sheet had held the enquiry. The Division Bench observed that this does not vitiate against any principles of natural justice. There was also a case of dismissal from service and on this point it was urged before the High Court that the authorities did not apply their minds to the quantum of punishment. According to the Division Bench no other punishment could have been awarded for the misconduct committed by the Petitioner, Conductor. With these observations, the Writ Petition was dismissed. I am considering the observations of the Div. Bench of the Bombay High Court, Panaji Bench for limited purpose. The principle con-

sidered in that case was whether a man like a Conductor who is a trusty for the cash should indulge into misconduct and whether the order of dismissal of such a person would be justifiable in the circumstances of the case and whether any lesser punishment is called for. By repeating the same facts, I am inclined to hold that the Conductor who was found to have taken the cash and not issued the ticket and who had betrayed the confidence by not guiding the Trainee Conductor properly deserves the extreme penalty of dismissal from services and there is no ground which called for any lesser punishment or interference with the order of the management. I find that there is no case of victimisation because Union was formed much after the order of dismissal and as many as 3 employees of the Corporation unanimously stated that Pandurang Vaze was the senior conductor on duty on Panaji — Sawantwadi route between 4th and 5th August, 1982 and when the passengers were checked on 5th August, 1982 after the bus arrived at Panaji bus stand a shortage of Rs. 15.35 was noticed and the responsibility to account for this account was rightly placed on the Party I, Conductor who had subsequently taken part in the Domestic Enquiry. It has to be noted that the Conductor who had taken part in the Domestic Enquiry had made out a case before me that no such enquiry was held at all. There is reason to believe that the Conductor is not stating the truth because he had taken a stand that he was not on duty on 4th and 5th August, 1982 but the record believes him and shows that he was in fact on duty as a Sr. Conductor, Suchit Naik being a Assistant and junior to him. I have considered all these facts in detail to see whether this is case of victimisation and improper termination of services. Upon a careful consideration of the facts and evidence on record I am inclined to hold that the order of termination is just and proper and the same does not call for any interference. In the result, I pass the following order:

ORDER

It is hereby held that the action of the employer M/s Kadamba Transport Corporation, Panaji, Goa in terminating the services of their workman Pandurang Vaze, Conductor is just and legal and the same does not call for any interference.

In view of the above finding the workman, conductor is not entitled to any relief in this reference.

In the circumstances of the case, the parties are directed to bear their own costs.

Inform the Govt. about the passing of the award accordingly.

S. V. Nevagi,
Presiding Officer
Industrial Tribunal